

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 22-10964-mg

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5 In the Matter of:

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7 CELSIUS NETWORK LLC,

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9 Debtor.

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12 United States Bankruptcy Court

13 One Bowling Green

14 New York, NY 10004

15

16 September 20, 2023

17 11:01 AM

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21 B E F O R E :

22 HON MARTIN GLENN

23 U.S. BANKRUPTCY JUDGE

24

25 ECRO: JONATHAN

1 HEARING re Hybrid Status Conference RE: Application to join
2 in the Debtor's motion for entry of an order (i) authorizing
3 the Debtors to enter into witness cooperation agreements
4 with certain current and former employees, (ii) authorizing
5 reimbursement of past and future out-of-pocket expenses of
6 cooperating witnesses, and (iii) granting related relief.

7 (Doc #3399, 2653, 2654, 2808)

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25 Transcribed by: Sonya Ledanski Hyde

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1 P R O C E E D I N G S

2 CLERK: All rise.

3 THE COURT: All right. Please be seated. All
4 right. We're here in Celsius 22-10964. This is in
5 connection with the Debtor's motion for an order with
6 respect to compensating counsel for witness cooperation
7 agreements with current and former employees. Who's going
8 to begin for the Debtor?

9 MS. JONES: Your Honor, Elizabeth Jones of
10 Kirkland & Ellis on behalf of the Debtors. Mr. Weitzman
11 filed the joinder and request for status conference, so if
12 okay will you, we'll have him start.

13 THE COURT: That's fine.

14 MR. WEITZMAN: May I approach the podium?

15 THE COURT: Yeah, go ahead. Please. Just give me
16 a second, okay, to make some notes.

17 All right. Go ahead.

18 MR. WEITZMAN: Thank you, Your Honor. Good
19 morning. Avi Weitzman from Paul Hastings. I'm here today to
20 address certain of my client's application to join the
21 Debtors' motion to authorize payment of cooperating witness
22 legal fees, which as Your Honor knows is docket -- my motion
23 is Docket 3399. The applicants who sought to join are eight
24 of my clients. They are current and former employees and
25 officers of Debtor. I

1 currently represent 12 former and current
2 officers and employees of Debtor. I was retained at the
3 outset of the bankruptcy proceeding to serve as the pool
4 counsel to nonconflicted officers and employees. The
5 Debtors, as Your Honor is aware, filed the application to
6 pay for cooperating witness fees approximately seven months
7 ago on February 28th, 2023, Docket 2147.

8 The UCC initially objected to that application but
9 then withdrew its objection after working with Debtors to
10 modify the proposal.

11 THE COURT: And I see -- I have in front of me a
12 copy of the revised order that's been submitted. I have the
13 redline open in front of me on my desk. So I've been
14 through that this morning as well.

15 MR. WEITZMAN: Great, Your Honor. So I think I
16 can skip the procedural background. The U.S. Trustee has
17 noted an objection, as Your Honor is aware, Docket 2230, and
18 persisted in that objection at the hearing Your Honor held
19 on June 15th, Docket 2808. I think the objection was
20 misplaced. It primarily relied on the assumption, incorrect
21 as it was, that the application would seek to reimburse
22 legal fees for Alex Mashinsky's and others who are accused
23 of wrongdoing.

24 The application does not do that. As Your Honor
25 is aware, both in the application and in the revised order,

1 it makes very clear that it will not reimburse for anybody's
2 -- anybody who's accused of wrongdoing, legal fees. And if
3 you look at the application, the proposed order, excuse me,
4 at Paragraphs 6 and 7, that's abundantly clear. We've
5 recently joined --

6 THE COURT: Just give me a second. Let me look.
7 This is the revised order.

8 MR. WEITZMAN: The revised order, Paragraphs 6 and
9 7. The excluded parties are anybody that the UCC sued or
10 intends to sue, and that includes Mr. Mashinsky.

11 THE COURT: Just give me a moment. What would be
12 helpful to me is if you just briefly review the safeguards
13 that are included in the order to assure that alleged
14 wrongdoers are not eligible to receive compensation.

15 And I'll ask Ms. Cornell about this as well, but
16 the -- because I understand the revised order, and this
17 Paragraph 6 in particular, "Absent further order of the
18 Court, none of the prospective defendants shall be
19 designated as eligible individuals and such parties shall
20 not be entitled to receive reimbursement by the Debtors for
21 any expenses. No later than 14 calendar days after the
22 entry of this order, the Debtor shall provide the U.S.
23 Trustee and the Committee with all documents related to any
24 reimbursements made by the Debtor, any prospective
25 defendants, or their counsel with respect to any

1 investigation or other proceeding involving a prospective
2 defendant," then it has, "since July 13th, '21."

3 I'll stop reading. So, but I think it was -- I
4 understand and I'm certainly -- will listen to Ms. Cornell
5 about it, but certainly from the start -- and I think this
6 is why the Committee was concerned from the start, that
7 alleged wrongdoers are not suddenly going to find themselves
8 being -- having their lawyers compensated by this insolvent
9 Debtor.

10 MR. WEITZMAN: That's correct, Your Honor. And I
11 think the procedural safeguards are much robust than even
12 just that one.

13 THE COURT: Okay. But --

14 MR. WEITZMAN: There are --

15 THE COURT: And review those for me.

16 MR. WEITZMAN: Yeah. In Paragraph 4, before any
17 reimbursement gets made, there are certain conditions that
18 need to be satisfied. The person, as I understand it, needs
19 to sign a agreement to cooperate. They then need to submit
20 invoice, detailed list of investigations, engagement letter.
21 And that all goes to the Debtor. The Debtor shares
22 information, as I understand it, with the UCC or maybe that
23 the applicant has to share the information with the UCC. I
24 see that they're on the list of recipients.

25 THE COURT: Mr. Weitzman, let -- I just -- just

1 let me say, we're -- we have visitors who are coming into
2 the courtroom and I'll just briefly explain so you're not
3 wondering why we have so many people suddenly coming into
4 this hearing. So --

5 MR. WEITZMAN: They heard I was speaking?

6 THE COURT: We have a group of people from the
7 Administrative Office of the Courts in Washington who are
8 here in the Court for meetings today. And I had the
9 pleasure of being part of the meeting earlier this morning.
10 And in addition to the many other things they're doing here
11 today, they were interested in seeing a hearing. So that
12 should explain why we had a group who was just coming into
13 the Court. So, okay.

14 MR. WEITZMAN: Thank you, Your Honor. I wish this
15 were more -- a more exciting hearing. I suspect not much in
16 the way of fireworks. However --

17 THE COURT: I should just say that -- for the
18 benefit of the visitors who've come in that while there were
19 only two lawyers in the courtroom and a lawyer for the U.S.
20 Trustee on Zoom, there are others on Zoom who have signed up
21 to observe the hearing, but it wasn't required that any of
22 them be here today. But just to give you some background
23 about, yes, there are only two lawyers -- three lawyers who
24 I expect will be arguing about it.

25 May -- there may be others who are going to want

1 to be heard and I'll give them a chance to do that, but just
2 to put it in context, and just -- the issue, among the
3 issues before the Court in Celsius is a proposal for
4 Celsius, the Debtor, to be able to reimburse or refer to as
5 pool counsel for employees or -- officers or employees
6 present or former who have been asked to either submit for
7 depositions or interviews, provide cooperation.

8 Throughout this case, there have been many issues
9 and many things have come up where it's been essential to be
10 able to know from the people who presently work, still work,
11 or did work for Celsius, what happened and why. And so
12 oftentimes what happens, and this is not uncommon in big
13 cases, where lots of employees who are not accused of having
14 done anything wrong, are put -- either having testimony or
15 voluntary interviews and often they want to be represented
16 by counsel.

17 So they always can on their own, but the issue is
18 when, can, or should the insolvent company, Celsius,
19 reimburse expenses for employees to be represented in
20 connection with depositions or interviews. So that's the
21 background. This has actually been on the calendar of the
22 Court for quite some time. There have been some
23 modifications and what I have before me is, so initially the
24 Debtors made this motion and the Creditors Committee had
25 opposed the motion.

1 And through extensive negotiation, the proposed
2 order has been revised extensively to put in various
3 safeguards in terms of amounts or what showings and who can
4 receive any compensation. The company also has directors'
5 and officers' liability insurance, but at least it appears
6 that the insurers are unwilling to compensate attorneys for
7 the voluntary appearance of employees at interviews,
8 deposition.

9 So that's a little bit of the background. I hope
10 I didn't misstate anything along the way, but it gives you a
11 sense of what we're talking about. And Mr. Weitzman is one
12 of the -- is the pool counsel. He's represented, I think
13 you told me it's 12 or?

14 MR. WEITZMAN: Twelve. Yes.

15 THE COURT: Twelve people present or former
16 employees of Celsius. That's really the nub of the issue.
17 The U.S. Trustee, Shara Cornell, one of the attorneys for
18 the U.S. Trustee in the Southern District is on the Zoom
19 screen and after I hear from Mr. Weitzman, I'll give Ms.
20 Cornell a chance because the U.S. -- as I understand it, the
21 U.S. Trustee continues to object to the request for relief.

22 So I'm hearing -- this is really a conference but,
23 look, with the confirmation hearing starting on October 2,
24 it's important to me that this issue get resolved.

25 MR. WEITZMAN: Thank you, Your Honor. I

1 appreciate that.

2 THE COURT: Sooner rather than later. I
3 interrupted you, Mr. Weitzman. Go ahead, go ahead.

4 MR. WEITZMAN: So I was saying in response to your
5 question that there are a number of procedural safeguards.
6 Obviously, notice is an important procedural safeguard and
7 objections are an important procedural safeguard. This is
8 not the Debtors proceeding on their own. This will be in
9 collaboration with the UCC and with the Trustee, each of
10 which will receive notice and will receive an opportunity to
11 object any particular reimbursement request. That's --
12 those procedures are clearly laid out in Paragraph 4, as
13 detailed as it is.

14 I think there are many other procedural
15 safeguards, of course. In addition to not reimbursing for
16 any legal fees for someone who's already been named in a
17 prospective lawsuit by the UCC, of which there are many
18 individuals named, there's a -- no opportunity for anybody
19 who's been indicted by the U.S. Attorney or charged by the
20 U.S. Attorney to get reimbursement.

21 On top of that, in Paragraph 8, if an eligible
22 individual is either deemed to have engaged in wrongdoing by
23 a judge or jury or admits under oath that they have engaged
24 in wrongdoing or provide any untruthful testimony or are
25 convicted of a crime, they will have to reimburse the Debtor

1 or the successor entity for all legal fees paid.

2 On top of that, none of the fees that are paid to
3 any of the individuals can be used in the defense in
4 connection with any civil or criminal proceeding. And if
5 the fees have already been paid by a covered individual,
6 they are not subject to reimbursement at this point. It's
7 only for unreimbursed and unpaid fees, and of course, the
8 Debtor has subrogation rights.

9 So there are a number of procedural safeguards
10 that ensure that money doesn't go into wrongdoers' hands and
11 that the only people who are going to have fees reimbursed
12 are those who have been cooperative and are not accused of
13 wrongdoing. The cooperation that they provided has been
14 extensive. I'll speak on behalf of my clients, although
15 I'm familiar with other individuals' cooperation as well.

16 My clients have sat for interviews by the Debtor.
17 They've sat for interviews by the Trustee. They've sat for
18 interviews -- I'm sorry, I meant to say the examiner, not
19 the Trustee. They've sat for interviews with the UCC.
20 They've been interviewed by the U.S. Attorney's Office, the
21 SEC, and the CFTC, some of them multiple times. They've
22 produced documents to the Debtors from their own personal
23 records, not just business records.

24 That cooperation is not over. It's ongoing. It
25 is likely that many of my clients will be called in any

1 proceeding that is prosecuted by the U.S. Attorney's Office,
2 the SEC, and the CFTC. It is expected that those other
3 regulatory proceedings may be stayed, but the U.S.
4 Attorney's Office proceeding against Alex Mashinsky is going
5 forward and I'm -- I have been informed that several of my
6 clients may well testify in that proceeding.

7 Any testimony that they provide, any meetings in
8 preparation with the U.S. Attorney's Office is not subject
9 to D&O reimbursement. The only insurance, the only D&O
10 insurance that will be paid out is for individuals who were
11 subpoenaed by a regulator. So most of my clients' legal
12 fees will not be subject to any reimbursement by a D&O
13 carrier and the only way to reimburse their voluntary
14 cooperation is through this application that the Debtors
15 have made. My --

16 THE COURT: This proposed order also includes
17 caps.

18 MR. WEITZMAN: Correct.

19 THE COURT: On how much can be reimbursed.

20 MR. WEITZMAN: Yes. So it is not a unlimited pool
21 that the Debtors are seeking to distribute. The caps are
22 very clearly laid out. As to prior expenses, it's capped at
23 a total of \$2.5 million. The original application had it at
24 \$3 million. It was reduced following consultation with the
25 UCC. And as to future expenses, it's capped at \$90,000 for

1 each individual witness and in the aggregate at no more than
2 \$1.5 million. It's -- at today's rates, not so much money;
3 although, I recognize that to unsecured creditors, this is a
4 large and important pool.

5 THE COURT: Let me ask, and I don't know whether
6 you or Ms. Jones can answer this. In the aggregate, how
7 many present or former officers or employees are
8 contemplated to be covered by this request for
9 reimbursement?

10 MR. WEITZMAN: I cannot answer that question.

11 THE COURT: Ms. Jones, are you able to indicate
12 that?

13 MS. JONES: Elizabeth Jones of Kirkland & Ellis on
14 behalf of the Debtors. Your Honor, originally, it was
15 probably, there were 16 being considered. I would say it's
16 probably gone down some and it's closer to five to ten.
17 It'll depend on, as we prepare for the confirmation hearing,
18 what we -- what types of witnesses we think we'll need, but
19 it is unlikely that we're likely to hit or exceed the caps
20 especially given now that the time period has been extended.
21 So again, the \$2.5 million is from petition date to now, not
22 prior to petition date, and the 1.5 is from now until the
23 effective date or confirmation order is entered.

24 THE COURT: Thank you. Go ahead, Mr. Weitzman.

25 MR. WEITZMAN: Yes, Your Honor. So my clients

1 received a copy of the Debtors' application seven months ago
2 and they proceeded in good faith on the assumption that that
3 application will be prosecuted. I think Your Honor heard at
4 a prior hearing that the Debtors were considering
5 withdrawing that application. That necessitated our
6 joinder.

7 My clients were left in a Hobson's choice seven
8 months ago. Even earlier, frankly. They could either not
9 cooperate voluntarily and force everybody to proceed through
10 formal compulsory process which would have slowed down this
11 entire proceeding, the U.S. Attorney's Office investigation
12 and so on. They could have cooperated, but without a lawyer
13 and subjected themselves potentially to liability. It's not
14 easy when you're a non-lawyer to understand what's happening
15 in civil and criminal proceedings and to cooperate fully,
16 truthfully, and accurately. Or they could have proceeded by
17 retaining independent counsel.

18 They chose the right approach, to retain
19 independent counsel. In my case, it was a pool counsel and
20 they did that at significant expense that they have not yet
21 -- that they have not paid and my firm has not been paid. I
22 think in all fairness, it is time for there to be a
23 reimbursement of those significant fees. Their cooperation
24 has been significant. It has furthered and benefited the
25 estate.

1 It has sped up, I think, this bankruptcy
2 proceeding. It has certainly sped up and assisted the U.S.
3 Attorney's Office in their prosecution of others and will
4 continue to permit the litigation trust to prosecute its
5 claims against others. Given the procedural safeguards,
6 given the interests of justice and in deference to the
7 Debtors' business judgment, we'd respectfully request that
8 Your Honor sign the proposed order found at Docket 2643.

9 I would add one more thing actually, Your Honor,
10 that I skipped which is the Trustee had previously suggested
11 that there was no need to retain independent counsel.
12 Kirkland or maybe its predecessor Latham could have
13 represented these individuals. I think, Your Honor, that
14 really misapprehends the position that these individuals are
15 in and what was happening at the time.

16 I'm a former federal prosecutor in the Southern
17 District of New York. I will tell you that when Debtors'
18 counsel represents all the officers and individuals who are
19 being asked to be interviewed by the U.S. Attorney's Office,
20 U.S. Attorney's Office looks askance at that. They are
21 skeptical of that type of joint representation. They prefer
22 independent counsel and there are many good reasons why
23 independent counsel should participate representing these
24 officers and employees.

25 Debtors' motion recognizes it itself at paragraph

1 thirty -- I'm sorry, in their reply at Paragraph 10. They
2 stated, it would be a significant conflict of interest for
3 Kirkland to represent eligible individuals in their
4 individual capacity during these Chapter 11 cases. Kirkland
5 represents the Debtors, not the Debtors' employees, and it
6 continues.

7 I think given the clear message that was -- that
8 is sent in these types of investigations, and in fact, it's
9 endorsed in the Enron opinion by Judge Casey that you need
10 pool counsel and independent counsel to represent these
11 officers and employees. I think the interests of justice
12 require that the application of the Debtor be so ordered.

13 THE COURT: Yeah, and I have a copy of Judge
14 Casey's decision from 2005, 335 B.R. 22 from September 26,
15 2005. I think it's one of the principal authorities that
16 the Court is considering.

17 MR. WEITZMAN: Yes, Your Honor. It's -- you know,
18 I recall the Enron case very well. It was an exceptional
19 case; 105 employees were represented by Swidler. It was a
20 massive fraud, as Your Honor is aware. It was a tricky and
21 complicated case.

22 The Celsius case is a tricky and complicated case
23 for many similar reasons, and many different reasons. This
24 is a highly complex case that required independent counsel
25 and many different lawyers have appeared on behalf of many

1 different individuals who -- none of whom are accused of
2 wrongdoing and are seeking reimbursement at this point.

3 THE COURT: All right, thank you very much.

4 MR. WEITZMAN: Thank you.

5 THE COURT: Ms. Jones, do you want to be heard?

6 MS. JONES: Thank you. Elizabeth Jones of
7 Kirkland & Ellis on behalf of the Debtors. Your Honor, I'll
8 be brief, but I did want to flag a few more of the
9 procedural safeguards. I know that has been a big concern
10 and specifically notice and opportunity for parties to
11 review. We will note that in the first instance, one, to be
12 eligible for future -- or sorry, to be eligible for past,
13 you have to participate in the future; two, to get that
14 approved at all you have to submit significant documentation
15 showing your participation, what your counsel rate is, what
16 the summary is, and anticipated future investigations as
17 well.

18 That all goes to the Committee, the Debtors, and
19 the U.S. Trustee at the same time. When -- then the Debtors
20 and the Committee have 14 days to make a recommendation.
21 The U.S. Trustee then has another seven days after that to
22 object. The Debtors, the Committee, and the U.S. Trustee
23 will work to resolve that, but once the decision is made,
24 all of that information is then filed on the docket.

25 So everybody will also see that and have notice of

1 it and then if after 14 days, nobody has raised an issue, we
2 can then reimburse those expenses. So the motion is very
3 much a procedural motion and has significant safeguards and
4 we believe it's still very important now we're nearing
5 confirmation. Witnesses are valuable. We agree with you
6 that a resolution is probably the most important, but unless
7 you have any other specific questions, I just wanted to make
8 sure to flag that everybody would have notice and see what
9 these witnesses have participated in.

10 THE COURT: Thank you very much, Mr. Jones. Let
11 me ask, before I turn to Ms. Cornell, is there anyone else
12 on Zoom who wants to speak in support of the motion? This
13 is an opportunity to do that.

14 MR. COLODNY: Your Honor, this is Aaron Colodny
15 from the Official Committee of Unsecured Creditors.

16 THE COURT: Good morning, Mr. Colodny.

17 MR. COLODNY: Your Honor, I echo Ms. Jones'
18 comments. This was heavily negotiated and one of the
19 provisions that was negotiated was that the Committee has a
20 consent right over any participating witness and the
21 reimbursement of any expenses. That was incredibly
22 important to us and we intend to view this very rigorously.
23 Ms. Jones, you know, also mentioned that we have
24 confirmation coming up. I think it's very important that we
25 get this resolved.

1 We have a number of witnesses that we are looking
2 to call at confirmation and we've heard from all of their
3 counsel a similar story to that that Mr. Weissman said
4 today, which is, you know, they have gone through extreme
5 sacrifice to cooperate here and that has not been without,
6 you know, potential consequences to them and they need
7 attorneys to advise them as to those potential consequences.

8 So the Committee supports the motion subject to
9 the changes that we negotiated with the Debtors that are
10 included in the order and we echo Ms. Jones' statement that
11 everything will be filed on the docket. Everybody will have
12 an opportunity to object and that includes the Court, as
13 always.

14 THE COURT: Thank you very much, Mr. Colodny. Is
15 there anybody else on Zoom who wished to speak in support of
16 the motion? All right. Ms. Cornell, do you want to be
17 heard?

18 MS. CORNELL: Thank you. This is Shara Cornell
19 with the Office of the United States Trustee. It's not the
20 procedural safeguards that are at issue here, Your Honor,
21 it's whether the estate should bear these costs. And while
22 we sympathize with those that have assisted in any type of
23 investigation here or in any case, there just isn't a basis
24 for the Debtors here to foot the bill. And it's not about
25 whether they need independent counsel or not, as counsel

1 suggested earlier. It is, it's whether the estate should
2 pay for independent counsel.

3 And there's been no other cases cited by the
4 parties other than Enron from 2005 and we do not believe
5 that in this case it should be paid for by the Debtors'
6 estate. There needs to be a clear and evidentiary basis for
7 the benefit to the estate. In this case, in particular,
8 with respect to Paul Hastings -- and I didn't file anything,
9 Your Honor, because I was under the impression that today
10 was just a status hearing -- but with respect to Paul
11 Hastings in particular, Paul Hastings already has received
12 \$750,000 for its work during the Celsius bankruptcy case.

13 It was received immediately prior to the filing of
14 the petition. We do not know whether those funds were
15 applied and whether or not this request includes that
16 application and whether any of the work was done for
17 individuals that were later removed by either the Committee
18 or the Debtors' list and whether or not that money has been
19 refunded to the estate.

20 There are still a lot of open ended procedural
21 questions as they relate to all counsel and specifically as
22 to Paul Hastings, but I do and the United States Trustee
23 continues to question whether or not the estate should foot
24 the bill here. And I'm happy to answer any other questions
25 or supplement my briefing with respect to Paul Hastings or

1 anything else, but that is the United States Trustee's
2 position at this time.

3 THE COURT: So, are there any cases that you --
4 any decisions other than the -- so obviously, as I said, I
5 have a copy of the Enron decision in front of me because I I
6 view it, Judge Casey's decision in 2005, as sort of the
7 guiding principles that the Court should apply in resolving
8 this issue.

9 And I think since the motion was first filed and
10 your objections, which I thought were -- and the Committee's
11 objections, which were I thought well taken at the time,
12 there's been significant modifications to the order and the
13 procedures, so that even if I approve the order that's been
14 submitted, this heavily negotiated order, the U.S. Trustee
15 will have the right to object to any specific reimbursement
16 request that's made. You agree with that, right?

17 MS. CORNELL: Yes, Your Honor.

18 THE COURT: Okay. So is there some decision other
19 than Judge Casey's decision in the Enron case that you think
20 is applicable here and would require the Court to deny the
21 motion?

22 MS. CORNELL: No, Your Honor. I don't believe
23 that there -- I have in -- at least in my research, I have
24 not found any cases following the 2005 opinion in either
25 direction. However, again, this is quite unique relief and

1 it is not seen often. So I wasn't surprised that there was
2 -- that there were few opinions out there on the issue.

3 But again, as I said earlier, it's not necessarily
4 the procedural safeguards that are at issue and we truly
5 appreciate the work that the Committee and the Debtors did
6 to get this order in the shape that it is in right now. I
7 know that there were tons of phone calls and tireless emails
8 between all the parties, including myself. But it goes back
9 to whether or not this Debtor's estate should pay for those
10 legal fees.

11 THE COURT: All right. Thank you, Ms. Cornell.

12 MS. CORNELL: Thank you.

13 THE COURT: Is there anybody else on Zoom who
14 wishes to speak in opposition to the pending motion? Ms.
15 Jones or Mr. Weitzman, do you want to respond?

16 MS. JONES: Yes, Your Honor, if I may again --

17 THE COURT: Go ahead.

18 MS. JONES: Elizabeth Jones of Kirkland & Ellis on
19 behalf of the Debtors. A few points on that. First, I do
20 want to note, and you noted earlier, that's what Paragraph 6
21 is, that talks about if any funds had been paid to
22 previously ineligible parties, we will provide that to the
23 U.S. Trustee through the date of this order. So we did add
24 that procedural safeguard in this order.

25 Second, as you also noted, Your Honor, this really

1 is a procedural motion in the sense that we are asking to
2 streamline procedures for reimbursement, but there is a very
3 real chance that the Debtors are not permitted to reimburse
4 any expenses depending on objections or the evidence that
5 parties provide. So at this stage, it's not seeking to take
6 away rights but rather streamline a process which further
7 reduces fees.

8 And third, Your Honor, just echoing the sentiment
9 is, we really do believe this is valuable and important.
10 363(b) allows the Debtors in their reasonable business
11 judgment to pay expenses. There are caps provided here so
12 we know the absolute max, but again, there could potentially
13 be none and so we believe that we've satisfied that
14 standard. We provided a declaration for Mr. Ferraro and we
15 do think that it makes sense here to try to provide a
16 procedural process for these employees to be reimbursed in
17 the way they benefit the estates.

18 THE COURT: Thank you. Mr. Weitzman, do you want
19 to be heard?

20 MR. WEITZMAN: Nothing further.

21 THE COURT: All right. So this was scheduled as a
22 status conference, so I'm not going to rule from the bench
23 with respect to this. I do think that it is really
24 important that there be a clear ruling because the
25 confirmation hearing starts October 2nd and I think clarity

1 before that is very important.

2 So I'm going to undertake to get out an order
3 resolving these issues. I think what I have before me,
4 obviously, is the heavily negotiated order that reflects the
5 compromises and agreements that have been reached and I
6 expect if I grant the motion, I'll enter that order, but I
7 will issue something that sort of briefly explains the
8 Court's reasoning.

9 So I think you can expect before the end of this
10 week there will be a ruling from the Court on the issue, but
11 I'm not ruling from the bench. This was just a status
12 conference, but I recognize the importance of getting a
13 decision out soon and so I will do that. I appreciate all
14 of you participating. Thank you.

15 MS. JONES: Great. Thank you, Your Honor.

16 THE COURT: We're adjourned.

17 (Whereupon these proceedings were concluded at
18 11:33 AM)

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing
transcript is a true and accurate record of the proceedings.



Sonya Ledanski Hyde

Veritext Legal Solutions

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Date: September 21, 2023

[& - application]

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